IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

OP.No. 35764 of 2001(G)

PETITIONER:

E.K.KUNJACHAN, S/O.KURIAYPE,
AGED 67, ELENJICKAL HOUSE,
KOTHAMANGALAM P.O.,
KOTHAMANGALAM VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.ALEXANDER JOSEPH

RESPONDENTS:
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1. **STATE OF KERALA, REP.BY**
SECRETARY TO GOVERNMENT,
DEPARTMENT OF INDUSTRIES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. **KERALA SMALL INDUSTRIES DEVELOPMENT**
CORPORATION LTD., REP.BY
ITS MANAGING DIRECTOR, P.B. NO.50,
SHANTHI NAGAR, THIRUVANANTHAPURAM.

3. **DEPUTY TAHSILDAR (REVENUE RECOVERY)**
KOTHAMANGALAM , ERNAKULAM DISTRICT.

BY ADV. SRI.M.A.MANHU, SC, SIDCO
BY GOVERNMENT PLEADER SRI.SURARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.58464/2001 IN OP. 35764/2001

DISMISSED

13.12.2006 **SD/- C.N.RAMACHANDRAN NAIR,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTICE DT.16.5.87.

EXT.P2:- COPY OF THE NOTICE DT.9.5.88.

EXT.P3:- COPY OF THE NOTICE DT. 16.6.88.

EXT.P4:- COPY OF THE COMPLAINT DT.11.12.2000 OF THE PETITIONER.

EXT.P5:- COPY OF THE OBJECTION DT.9.8.01.

EXT.P6:- COPY OF THE NOTICE DT. 22.8.01.

EXT.P7:- COPY OF THE DEMAND NOTICE NO. B5-13622/01 DT.16.11.01.

EXT.P8:- COPY OF THE ATTACHMENT NOTICE NO.B5-13622/01 DT.16.11.01.

/TRUE COPY/

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.35764 of 2001

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Dated this the 13th day of December, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of rent in respect of an industrial shed allotted to the petitioner by the SIDCO. It is conceded in the counter affidavit that land was given by the petitioner along with nine others free of cost to SIDCO for construction of industrial building and infrastructure facilities for allotment to them for starting industries. Even though it is conceded in the counter affidavit that land was surrendered by the land owners in 1977, the factory shed was constructed and 600 sq. ft. was allotted to the petitioner only in June 1984 i.e. after seven years. Admittedly the petitioner has also remitted Rs.3,000/- as initial deposit and later paid Rs.1,620/- towards rent arrears. However, it is conceded that petitioner could not start the industry and consequently Corporation evicted him from the shed on 24.1.1989. The petitioner's case is that petitioner could not start the industry because even power connection was not provided by the Corporation and SSI registration was also not granted. Obviously respondents have committed delay and breach and the petitioner is a net looser because apart from surrendering 10 cents of land which will be a valuable asset as of now, petitioner has paid Rs.4,620/- twenty years back without any gain. Moreover, respondents have obviously utilised the land for more profitable use and obviously does not suffer any loss. On the other hand,

petitioner has suffered. In the circumstances and in view of the inordinate delay in proceeding with recovery, I allow the O.P. by quashing the impugned demand and revenue recovery notice issued against the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms